IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 14445 of 2007(T)

PETITIONER:

MAX KURIAN, S/O.KURIACHAN,
AGED 36 YEARS, KANJIRAVELIL HOUSE,
MANGATTOOR, KOLENCHERI P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.C.K.ABDUL RAHIM

RESPONDENTS:
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1. THE CIRCLE INSPECTOR OF POLICE,
ANGAMALY.

2. THE SUB INSPECTOR OF POLICE,
AYYAMPUZHA POLICE STATION, AYYAMPUZHA.

3. JOSHY PAULOSE, S/O.PAULOSE,
PALLIPPATTU HOUSE, OLIVE MOUNT, CHULLY P.O.,
ANGAMALY.

4. SHIJU KURIAKOSE, S/O.KURIAKOSE,
AREEKKAL HOUSE, OLIVE MOUNT, CHULLY P.O.,
ANGAMALY.

5. P.O.MATHUNNI, PADAYATTI HOUSE,
OLIVE MOUNT, CHULLY P.O., ANGAMALY.

6. BIJU OUSEPH, S/O.OUSEPH,
AREEKKAL HOUSE, OLIVE MOUNT, CHULLY P.O.,
ANGAMALY.

7. BIJU DEVASYKUTTY,
S/O.DEVASYKUTTY, PALAMKARA HOUSE,
OLIVE MOUNT, CHULLY P.O., ANGAMALY.

R3 to R5 BY ADV. SRI.P.V.MOHANAN
SRI.P.N.BIJU
R1 & R2 BY GOVT. PLEADER SRI. P.A. SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY of the LEASE AGREEMENT EXECUTED BETWEEN STHE PETITIONER AND SRI. DAVIS.
EXT.P2: COY OF THE MINING PERMIT ISSUED BY THE DISTSRICT GEOLOGIST DT. 11.5.2007
EXT.P3: COPY OF THE LICENCE GRANTED BY THE GRAMA PANCHAYAT DT. 13.4.2007.
EXT.P4: COPY OF EXPLOSIVE LICENCE.
EXT.P5: COPY OG YHR MINING MATE COMPETENCY CERTIFICATE.
EXT.P6: COPY OF THE COMPLIANT SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DT. 30.4.2007.
EXT.P7: COPY OF THE ACKNOWLEDGMENT RECEIPT ISSUED BY 2ND RESPONDENT DT. 30.4.2007.
EXT.P8: COPY OF THE RENEWED PERMIT DT. 9.5.2007.
EXT.P9: COPY OF THE PANCHAYAT LICENCE BEARING ENDORSMENT OF RENEWAL.

RESPONDETNS' EXHBITS:

EXT.R3(A): TRUE COY OF THE REPRESENTATION DATED 31.1.2007.
EXT.R3(B): TRUE COPY OF ENDORSEMENT DATED 31.1.2007.
EXT.R3(C): TRUE COPY OF THE RECEIPT DATED 1.2.2007
EXT.R3(D): TRUE COPY OF PROCEEDINGS NO. M.47304/2006 DATED 1.12.2006.
EXT.R3(E): TRUE COPY OF THE INTERIM ORDER IN WP(C).32628/2006 DATD 7.12.2006.

// TRUE COPY//

P.S. TO JUDGE.

P.R. RAMAN & K. HEMA, JJ.

W.P.(C).No.14445 of 2007

Dated this the 31st day of May, 2007.

JUDGMENT

Raman, J.

Petitioner seeks for a writ of mandamus directing respondents 1 and 2 to afford necessary police protection to the life and property of the petitioner and his workers with respect to the operation of blasting and quarrying conducted in the property covered by lease agreement without being obstructed by respondents 3 to 7. It is the contention of the petitioner that he is doing the quarrying operation as per the licence issued to him by various authorities as per Exts.P2 to P5. He has also produced along with the reply affidavit, the current licence issued by various authorities in his favour. Thus, the quarrying operation is carried on strictly in accordance with law. But, he alleges that physical obstruction is caused by respondents 3 to 7.

2. Respondents 3 to 7 have filed a counter-affidavit. They denied the allegation that they are causing physical obstruction to the petitioner and his workers. However, according to them, they have a grievance against the petitioner in carrying out the quarrying operations, which they have expressed in a petition submitted before the District Collector as Ext.R3(a). So far no orders have been passed by the District Collector in Ext.R3(a).

This Court granted an interim direction to second respondent to give necessary protection to the life and property of the petitioner and its workers engaged in the blasting and quarrying operation in the property in question so long as such operation is conducted in accordance with the terms of the permit and licence. Having considered the rival contentions and after hearing learned Government Pleader appearing on behalf of the State, we dispose of the writ petition in the following terms:

The interim direction granted by this Court is made absolute and it will be open to the petitioner to carry out the blasting and quarrying operations strictly in accordance with the terms and conditions contained in the permit and licence issued by the various authorities from time to time. So long as the petitioner is conducting the quarrying operation in accordance with law, no physical obstruction can be caused by anybody and, if any such obstruction is caused by anybody, of course, the State is bound to render adequate protection to remove such obstruction. However, we make it clear that this direction will not stand in the way of authorities taking any decision on the petition submitted before them in accordance with law.

Sd/-

P.R.RAMAN, JUDGE.

Sd/-

K. HEMA, JUDGE.

Krs.